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LOUIS MYERS
FISH AND RICHARDSON PC
225 FRANKLIN STREET
BOSTON MASSACHUSETTS 02110-2804

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MAY 06 2002

In re Application of
Pietropaolo et al.
Application No. 08/467,605
Filed: June 6, 1996, 1996
Attorney Docket No. Jdp-032CPDV

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition resubmitted by facsimile transmission April 17, 2002, with an original executed certificate of mailing under 37 CFR 1.8 having a date of March 27, 1998, which is being treated as a petition under 37 CFR 1.181(no fee) to invoke the remedial provisions of 37 CFR 1.8(b) and withdraw the holding of abandonment.

The petition is granted.

This application presumably became abandoned at midnight on January 27, 1998 for failure to reply to the non-final Office action of October 27, 1997. A Notice of Abandonment was mailed May 11, 1998. A petition to revive under 37 CFR 1.137(b) was filed on July 10, 1998 and apparently was misplaced by the USPTO.

Inspection of the petition reveals copies of documents showing that (1) a reply to the non final Office action, along with a declaration under 37 CFR 1.132, (2) a request (and fee) for a two month extension of time, and (3) a return postcard was entrusted to the USPS on March 27, 1998, along with an itemized transmittal complying with the provisions of 37 CFR 1.8. The check for the fee was duly negotiated and the postcard acknowledging receipt was returned to counsel on March 30, 1998.

Clearly the USPTO received the items, and misplaced them after receipt, and further, the reply was timely filed in view of the extension, fee, and executed certificate of mailing.

The holding of abandonment is withdrawn under the remedial provisions of 37 CFR 1.8(b). This application was continuously pending. Since the Notice of Abandonment was mailed in error, it is vacated herewith. The USPTO regrets the errors and delays in treating both the initial reply and the initial petition.

The \$55 petition fee paid in 1998 is refundable. Since counsel has apparently changed firms, he should clarify in writing to the Office of Finance--Refunds-- at the USPTO address above as to which account the refund should be credited.

This application is being forwarded to Technology Center AU 1648 for further processing.

Telephone inquiries related to this decision may be addressed to the undersigned at (703) 305-1820.

A handwritten signature in cursive script, appearing to read "Brian Hearn".

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy